IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL WRIT PETITION NO.7417/02

Ramji Lal **Versus** State & Ors.

DATE OF ORDER :: 27/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. R.R. Meena for Mr. Ganesh Meena, for petitioner
Mr. B.K. Sharma, Dy.G.A.

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Respondent Nos.3 & 4 are represented by Mr. B.K. Sharma, Dy.G.A.

Petitioner was elected as Ward Panch of Gram Panchayat Kishorpura, Panchayat Samiti Lalsot, District Dausa. After he was elected, on a complaint, he was served with the show cause notice under Rule 39(2) of Panchayati Raj Act, 1994 who was disqualified on account of pre-election disqualification vide order impugned Ann.8 dated 9th September, 2002.

This Court in D.B. Civil Special Appeal [Writ] No.236/06, Smt. Sameera Bano Vs. State of Rajasthan & two other connected matters, decided on 2nd April, 2007 finally held that a pre-election disqualification can be adjudicated only in an election petition before the District Judge u/s.43 of the Act read with Rule 80 of the Election Rules and cannot be adjudicated by the authority under Rule 23 of the Rules.

In view of law laid down by this court in the judgment referred to supra, the writ petition stands allowed. The order impugned Ann.8 dated 9th September, 2002 passed by the authority in exercise of its power u/s.39 holding petitioner to be disqualified is hereby quashed and set aside. No order as to costs.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.